

wc

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

V.

Jesus GONZALEZ-Avina,

Defendant

Magistrate Docket No.

COMPLAINT FOR VIOLATION OF:

**Title 8, U.S.C., Section 1326
Deported Alien Found in the
United States**

The undersigned complainant, being duly sworn, states:

On or about **February 4, 2008** within the Southern District of California, defendant, **Jesus GONZALEZ-Avina**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 5th DAY OF FEBRUARY
2008

Ruben B. Brooks
UNITED STATES MAGISTRATE JUDGE

PROBABLE CAUSE STATEMENT

On February 4, 2008 Border Patrol Agent D. Tobin was performing line watch duties in the Imperial Beach Border Patrol Station area of operations. At approximately 1:25 AM the infra-red scope operator, Border Patrol Agent D. Spear, notified Agent Tobin via Agency radio of five individuals walking north in an area known as "Goat Canyon". This area is located approximately 200 yards north of the U.S./Mexico International Boundary Fence, and four miles west of the San Ysidro, California Port of Entry.

Agent Spear observed one of these subjects using hand gestures to direct the other subjects. Agent Tobin responded to the area and began performing a search of the area. While searching the area, Agent Tobin encountered four subjects attempting to conceal themselves in dense brush and observed one subject running south toward the United States/ Mexico boundary. Agent Tobin identified himself as a United States Border Patrol Agent and questioned the subjects as to their citizenship and immigration status. All four subjects, including one later identified as the defendant **Jesus GONZALEZ-Avina**, freely admitted to being citizens and nationals of Mexico not in possession of any immigration documents which would allow them to enter or remain in the United States legally. All of the individuals including the defendant were arrested and transported to the Imperial Beach Border Patrol Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico** on **January 12, 2008** through **San Ysidro, California**. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was advised of his Miranda Rights and stated that he understood his rights and was willing to answer questions without an attorney present. The defendant admitted to being a citizen and national of Mexico, and that he is present without immigration documents that would allow him to enter or remain in the United States legally.